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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 MICHAEL ALLAHRAE FOX,  
12 Plaintiff,  
13 v.  
14 ERNEST ZEIGLER,  
15 Defendant.  
16

Case No. 1:20-cv-00290-JLT-BAK-GSA (PC)  
ORDER DENYING PLAINTIFF'S MOTION  
FOR APPOINTMENT OF COUNSEL  
(ECF No. 49)

17 Plaintiff has filed a motion seeking the appointment of counsel. (ECF No. 49.) As  
18 grounds, Plaintiff advises that the prison is on full quarantine due to a COVID-19 outbreak and  
19 he is unable to access the law library.

20 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.  
21 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to  
22 represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. U.S. Dist. Ct. for the S. Dist.  
23 of Iowa, 490 U.S. 296, 298 (1989). The Court may request the voluntary assistance of counsel  
24 under section 1915(e)(1). Rand, 113 F.3d at 1525. However, without a reasonable method of  
25 securing and compensating counsel, the Court will seek volunteer counsel only in the most  
26 serious and exceptional cases. In determining whether exceptional circumstances exist, the  
27 district court must evaluate both the likelihood of success of the merits and the ability of the  
28 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Id.*

1 The Plaintiff's motion does not indicate exceptional circumstances that warrant  
2 appointment of counsel. Even assuming that Plaintiff is not well-versed in the law and that he  
3 has made serious allegations, which, if proved, would entitle him to relief, his case is not  
4 exceptional. This Court is faced with similar cases almost daily. At this stage in the  
5 proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the  
6 merits. Moreover, based on a review of the record, the Court finds that Plaintiff is able to  
7 articulate his claims adequately. *Id.* Plaintiff has already filed a response to Plaintiff's motion  
8 for summary judgment, (ECF No. 38), which is currently under advisement.

9 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the appointment of  
10 counsel is DENIED WITHOUT PREJUDICE.

11  
12 IT IS SO ORDERED.

13 Dated: January 14, 2022

/s/ Gary S. Austin  
14 UNITED STATES MAGISTRATE JUDGE